UNITED STATES PATENT AND TRADEMARK OFFICE

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10/666,631	09/18/2003	Robert Birch	1160215/0514436	9238

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EXAMINER
GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
3692	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _17 October 2007_.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-18_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-18_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-17, are rejected under 35 U.S.C. 102(e) as being anticipated by Barry et al (Hereinafter Barry U.S Pub: 2005/0216421A1).

As per claims 1, Barry discloses a computerized method for billing for web services comprising the steps of:

creating a descriptor file designating at least one pre-defined element;

configuring a handler to monitor a web service network communication, between a service requestor and a service provider, for said pre-defined element(s) in said descriptor file;

configuring said handler to send said pre-defined element(s) to a set of programmed instructions to create an event record;

electronically transmitting said event record to a billing system for further processing.(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 2, Barry discloses a computerized method as claimed in claim 1 wherein said programmed instructions are configured to determine whether an event corresponding to said event record requires authorization. (see column 2 para 0023 and

column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 3, Barry discloses a computerized method as claimed in claim 1 wherein said programmed instructions are configured to determine whether an event corresponding to said event requires rating.(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 4, Barry discloses a computerized method as claimed in claim 1 further comprising the steps of transforming said pre-defined element(s) according to a set of instructions in said descriptor file before transmitting said event record to the billing system. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 5, Barry discloses a computerized method as claimed in claim 1 wherein said web service network communication comprises a request for a web service and a response wherein said request comprises a start time and said response comprises an end time and further comprising the steps of: - creating a first event record comprising said start time;
sending said first event record to said billing system;
queuing said first event record in said billing system;
creating a second event record comprising said end time.(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324) sending said second event record to said billing system;
matching said first event record with said second event record;
calculating a charge for said web service based on said start time and said end time;
returning said charge to said service provider. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 6, Barry discloses a computerized method as claimed in claim 1 wherein said billing system comprises programmed billing instructions coded to determine whether a web service transaction may be performed. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 7, Barry discloses wherein said programmed billing instructions are configured to determine if said service requestor is permitted to access said web service transaction. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 8, Barry discloses wherein said billing system may return a response to said web service provider indicating whether said web service should proceed. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 9, Barry discloses wherein said programmed billing instructions are configured to determine whether said service requestor is solvent enough to purchase said web service.transaction .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 10, Barry wherein said programmed billing instructions are configured to return a response to a set of application code associated with said web service provider indicating whether said web service transaction should proceed. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 11, Barry discloses wherein said programmed billing instructions are configured to return a response to said web service provider indicating a quantity for said web service transaction to proceed. .(see column 2 para 0023 and column 4 para

0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 12, Barry discloses wherein said web service network communication comprises a SOAP message stream. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 13, Barry discloses a wherein said SOAP message stream comprises a set of data including quality of service information, authorization key fields, version numbers, encrypted account information, and start/stop time. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 14, Barry discloses wherein a billing system uses said at least pre-defined element in said SOAP message stream to support at least one pre-defined billing plan. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 15, Barry discloses a wherein said pre-defined billing plans is chosen from a list consisting of subscriptions, bundled plans, time-based usage plans, re-occurring charges, one-time charges, discount plans based on usage, discount plans based on time-of-day, discount plans based on customer loyalty, discount plans based on family/organization relationships, tired plans, location dependent pricing, and combinations thereof. .(see column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 16, Barry discloses a computer-readable medium having computer executable instructions for performing a method comprising receiving a descriptor file designating at least one pre-defined element;
utilizing said descriptor file to monitor a web service network communication for said pre-defined element(s);

copying said-predefined element(s) from said network communication into a record;

electronically sending said record to a billing system for further processing. .(see

column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and

column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 17, Barry discloses a system for billing for web services comprising:

a descriptor file; a handler;

a record; and a billing system wherein said descriptor file designates at least one pre-

defined elements;

said handler is configured to monitor a web service network communication, between a

service requestor and a service provider, and to intercept said communication if said

communication corresponds to said at least one pre-defined element in said descriptor

file;

- said handler is further configured to copy said pre-defined elements from said network

communication into ·a record, said handler is further configured to electronically transmit

said record to a billing system for further processing. (see column 2 para 0023 and

column 4 para 0042 and column 22 para 0273-0276 and column 23 para 0277 and

column 25 para 0302-0304 and column 27 para 0316-0324).

As per claims 18, Barry discloses 18. (New) The system of claim 17 wherein said

billing system is embedded within a web service server; wherein said further processing

comprises determining whether said service requestor is solvent enough to purchase a

web service corresponding to said web service network communication; and wherein

said web service network communication comprises a SOAP message stream. (see

column 2 para 0023 and column 4 para 0042 and column 22 para 0273-0276 and

column 23 para 0277 and column 25 para 0302-0304 and column 27 para 0316-0324).

Conclusion
RESPONSE TO ARGUMENTS

3.   Applicant's arguments filed 10/17/07 has been fully considered but they are not

persuasive for the following reasons.

4.   In response to Applicant's arguments that Barry fail to teach or suggest" creating a
descriptor file designating at least one pre-defined element configuring a handler to monitor a
web service network communication, between a service requestor and a service provider, for
said pre-defined element in said descriptor file configuring said handler to send said pre-
defined element(s) to a set of programmed instructions to create an event record, electronically
transmitting said event record to a billing system for further processing" the Examiner
disagrees with Applicant's because these limitations were addressed as stated.
creating a descriptor file designating at least one pre-defined element;
configuring a handler to monitor a web service network communication, between a
service requestor and a service provider, for said pre-defined element(s) in said
descriptor file;
 configuring said handler to send said pre-defined element(s) to a set of programmed
instructions to create an event record;
electronically transmitting said event record to a billing system for further
processing.(see column 2 para 0023 and column 4 para 0042 and column 22 para
0273-0276 and column 23 para 0277 and column 25 para 0302-0304 and column 27
para 0316-0324).
Further claims states, configuring a handler to monitor a web service network" configuring said
handler to send said pre-defined element" configuring a handler to monitor a web service
network communication".
However the limitations intended to be perform and are not actually been perform to configure
to execute is not executing.
Therefore it is inherently clear that Applicant's claim limitations were taught between the
teachings of Barry.
4.   Applicant's claims 1, 15, 17, states " configuring a handler to monitor, configuring said
handeler to send, utilizing said descriptor file to monitor, handler configured to monitor,
configured to copy, configured to transmit " sending said record to a billing system for further
processing"
However the subject matter of a properly construed claim is defined by the terms that limit its

scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

(A)   statements of intended use or field of use,

(B)   "adapted to" or "adapted for" clauses,

(C)   "wherein" clauses, or

(D)   "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

**>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").<

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. Toro Co. v. White Consolidated Industries Inc., 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed.

Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." Multiform Desiccants Inc. v. Medzam Ltd., 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the   examiner should be directed to Clement B Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

July 20, 2007

FRANTZY POINVIL
PRIMARY EXAMINER